

Message Text

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C O N F I D E N T I A L STATE 060455

FOR DEPUTY ASSISTANT SECRETARY GLEYSTEN ONLY

FOL PEKING 0617 SENT ACTION SECSTATE INFO HONG KONG MUSCOW
TAIPEI TOKYO CINCPAC MAR 8, 1978 REPEATED TO YOU QUOTE

C O N F I D E N T I A L PEKING 0617

CINCPAC FOR POLAD

E. O. 11652: GDS
TAGS: PINT PGOV SHUM CH
SUBJ: FIFTH NATIONAL PEOPLE'S CONGRESS: TEXT OF REVISED STATE
CONSTITUTION RELEASED

REF: PEKING 550

1. SUMMARY. PEKING RADIO BEGAN BROADCASTING THE FULL TEXT OF
THE REVISED 1978 STATE CONSTITUTION DURING THE AFTERNOON OF
MARCH 7. THENEW CONSTITUTION LOOKS TO BE VERY SIMILAR TO THE FIRST
STATE CONSTITUTION ADOPTED IN 1954. AS NPC CHAIRMAN YEH CHIEN-YING
EXPLAINED IN HIS MARCH 1 SPEECH (ALSO RELEASED ON MARCH 7),
"IF WE ARE TO BRING GREAT ORDER ACROSS THE LAND, WE MUST
HAVE RULES FOR RUNNING IT." THE CONSTITUTION HEAVILY
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PAGE 02 STATE 060455

EMPHASIZES RULES AND RATIONAL PROCESSES WITH EXPRESSED
GUARANTEES FOR INDIVIDUAL RIGHTS OF EXPRESSION. IN LARGE
MEASURE, NEW CONSTITUTIONAL ARRANGEMENTS CLOSELY PARALLEL
PRC STATE AND PARTY STRUCTURE IN THE 1950S WHEN THE
STATE APPARATUS WAS, AT LEASTT IN THEORY, MORE NEARLY
EQUAL TO THE PARTY HIERARCHY.

2. SIGNIFICANT CHANGES FROM THE PREVIOUS STATE CONSTITUTION (ADOPTED IN 1975) INCLUDE SETTING THE GOAL OF ECONOMIC MODERNIZATION BY THE TURN OF THE CENTURY, COMBINATION OF "MORAL ENCOURAGEMENT WITH MATERIAL REWARD" TO PROMOTE PRODUCTION, ENSHRINEMENT OF MAO TSE-TUNG THOUGH WITH LESS EMPHASIS PLACED ON "CLASS STRUGGLE", REMOVAL OF A PASSAGE STATING THAT THE ARMY IS ALSO A CIVILIAN PRODUCT-IN FORCE, REDUCTION IN THE POWER OF LOCAL PUBLIC SECURITY ORGANS, AND AN ARTICLE PAVING THE WAY FOR CONSOLIDATION OF AGRICULTURAL PRODUCTION. THE PREAMBLE STATES, "WE ARE DETERMINED TO LIBERATE TAIWAN" A SENTIMENT ABSENT FROM THE 1975 CONSTITUTION. END SUMMARY.

3. THE COMPLETE TEXT OF THE 1978 STATE CONSTITUTION, ADOPTED ON MARCH 5 BY THE FIFTH NATIONAL PEOPLE'S CONGRESS (NPC), WAS RELEASED IN FULL ON MARCH 7. SIXTY ARTICLES IN LENGTH, IT IS EXACTLY TWICE AS LONG AS THE LAST STATE CONSTITUTION ADOPTED BY THE FOURTH NATIONAL PEOPLE'S CONGRESS IN JANUARY 1975. IT DIFFERS SIGNIFICANTLY FROM THE 1975 CONSTITUTION AND FOCUSES ON DETAIL, ORDERLY PROCESSES, AND EXPRESSED GUARANTEES FOR HUMAN RIGHTS. IN FORM, THE 1978 CONSTITUTION IS CLOSER TO THE FIRST STATE CONSTITUTION ADOPTED IN 1954. IN FACT, MAJOR PORTIONS OF THE NEW CONSTITUTION ARE LIFTED DIRECTLY FROM THE 1954 DOCUMENT. THE TEXT CLEARLY LIVES UP TO THE EXPECTATIONS RAISED BY NPC CHAIRMAN YEH CHIEN-YING WHEN HE SAID IN

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 060455

HIS MARCH 1 SPEECH (ALSO RELEASED ON MARCH 7) PROPOSING THE CONSTITUTION TO THE CONGRESS, "IF WE ARE TO BRING GREAT ORDER ACROSS THE LAND, WE MUST HAVE RULES FOR RUNNING IT." THE BROAD AND SPECIFIC POWERS OF THE NATIONAL PEOPLE'S CONGRESS, THE NPC STANDING COMMITTEE, THE SUPREME PEOPLE'S COURT AND PROCURATORATE, THE STATE COUNCIL, THE LOCAL PEOPLE'S CONGRESSES, THE LOCAL COURT SYSTEM ARE EXPLICIT AND AIM AT REDUCING THE ADMINISTRATIVE UNCERTAINTY THAT ALLOWED SO-CALLED "REVOLUTIONARY ELEMENTS" AND OTHERS "BAD ELEMENTS" TO DISRUPT THE POLITICAL SYSTEM IN RECENT YEARS.

4. THE NEW CONSTITUTION IS ALSO A CATALOG OF NATIONAL POLICY. IT ENSHRINES MAO-TSE-TUNG THOUGHT, BUT DE-EMPHASIZES THE DISRUPTIVE SIDE OF HIS TEACHINGS. IT CONFIRMS THE GOAL OF AGRICULTURAL, ECONOMIC, MILITARY, AND SCIENTIFIC MODERNIZATION BY THE END OF THE CENTURY. IT ENDORSES QUALITY EDUCATION AND A "FLOURISHING" IN THE ARTS. IT LEGALIZES MATERIAL INCENTIVES AND PERIODIC WAGE INCREASES. IT PAVES THE WAY FOR CONSOLIDATION OF AGRICULTURAL ORGANIZATION BY STATING THAT THE "PRODUCTION BRIGADE MAY BECOME THE BASIC ACCOUNTING UNIT WHEN ITS

CONDITIONS ARE RIPE." (THE 1975 CONSTITUTION STATED THAT THE SMALLER AND MORE MANAGEABLE PRODUCTION TEAM WAS THE BASIC UNIT OF PRODUCTION). THERE IS ALMOST NO MENTION OF ISSUES CONNECTED WITH FOREIGN POLICY EXCEPT FOR APREAMBULAR STATEMENT THAT "WE ARE DETERMINED TO LIBERATE TAIWAN." THIS WAS NOT IN THE 1975 CONSTITUTION.

5. THE NEW CONSTITUTION DIFFERS FROM THE 1975 CONSTITUTION IN SEVERAL OTHER SIGNIFICANT AREAS:
--THE PEOPLE'S LIBERATION ARMY IS TO BE A PROFESSIONAL FIGHTING FORCE AND IS NO LONGER DESCRIBED AS A CIVILIAN PRODUCTION FORCE, THEREBY REDUCING THE PROBABILITY OF EXCESSIVE MILITARY INVOLVEMENT IN
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 STATE 060455

LOCAL POLITICS.
--THE "UNITED FRONT" CONCEPT IS EXPANDED TO SPECIFICALLY INCLUDE INTELLECTUALS, PATRIOTIC PERSONAGES, "OUR COMPATRIOTS IN TAIWAN, HONG KONG AND MACAO, AND OUR COUNTRYMEN RESIDING ABROAD."
--THE PRC HAS EMBARKED ON A "NEW PERIOD OF DEVELOPMENT IN THE CHINESE SOCIALIST EVOLUTION AND SOCIALIST CONSTRUCTION" AFTER THE OFFICIAL END OF THE CULTURAL REVOLUTION.
--THE NATIONAL PEOPLE'S CONGRESS IS DESCRIBED AS THE "HIGHEST ORGAN OF STATE POWER" BUT ABSENT IS THE 1975 QUALIFIER "UNDER THE LEADERSHIP OF THE COMMUNIST PARTY". WHILE PARTY LEADERSHIP OVER STATE ORGANS IS CLEAR IN OTHER ARTICLES IN THE NEW CONSTITUTION, THE STATE HIERARCHY IS PLACED, AT LEAST IN THEORY, ON MORE OF AN EQUAL FOOTING WITH THE PARTY APPARAT -- A SYSTEM EQUIVALENT TO CHINESE ORGANIZATION IN THE 1950S.
--REVOLUTIONARY COMMITTEES ARE ABOLISHED AT THE PREFECTURAL LEVEL AND IN OTHER LOCAL UNITS BUT RETAINED IN TOWNS, COMMUNES, MUNICIPALITIES, DISTRICTS AND IN HIGHER ADMINISTRATIVE ORGANS. THERE WILL BE GREATER CONCENTRATION OF AUTHORITY IN THE HANDS OF LOCAL OFFICIALS.
--NPC DEPUTIES HAVE THE POWER TO ADDRESS "INQUIRIES" TO THE STATE COUNCIL AND OTHER STATE ORGANS "WHICH ARE ALL UNDER OBLIGATION TO ANSWER".
--THE DUTIES OF LOCAL PEOPLE'S CONGRESSES ARE MORE EXPLICIT AND INCLUDE POWER OVER THE IMPLEMENTATION OF LAWS, ADHERENCE TO THE CONSTITUTION, AND INVOLVEMENT WITH LOCAL ECONOMIC PLANS.

6. THE NEW CONSTITUTION ALSO GOES BEYOND THE PREVIOUS CONSTITUTION IN ITS EXPRESSED GUARANTEE OF DEMOCRATIC PROCESSES AND HUMAN RIGHTS. DELEGATES ARE TO BE ELECTED TO THE NPC BY SECRET BALLOT, INDIVIDUALS CAN LODGE COMPLAINTS WITHOUT RETRIBUTION TO HIGHER AUTHORITIES ABOUT UNFAIR
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PAGE 05 STATE 060455

TREATMENT BY LOCAL OFFICIALS, AND THE FREEDOM OF EXPRESSION
IS EXPANDED. THE POWER OF LOCAL PUBLIC SECURITY
ORGANS IS DRASTICALLY REDUCED. THE CONSTITUTION STATES
THAT PUBLIC SECURITY ORGANS CAN NO LONGER MAKE ARRESTS
SOLELY ON ITS OWN AUTHORITY -- IT MUST HAVE THE SANCTION OF
A COURT DECISION OR A PROCURATORATE'S APPROVAL. ACCUSED ARE
ALSO GUARANTEED THE RIGHT TO DEFENSE AND LOCAL COURTS ARE
ACCOUNTABLE TO LOCAL PEOPLE'S CONGRESSES. NATIONAL MINORITIES ARE
ALSO DECLARED "EQUAL" WITH APPROPRIATE PROMISES TO
ALLOW FREEDOM OF CUSTOM AND LANGUAGE. WOODCOCK UNQUOTE
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